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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,874	07/09/2001	Hirozo Amano	70101	5943

7590 09/12/2002
McGLEW AND TUTTLE, P.C.,
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-0827

EXAMINER

NOLAN, SANDRA M

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 09/12/2002

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/901,874

Applicant(s)

AMANO ET AL.

Examiner

Sandra M. Nolan

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims

1. Claims 1-10 are pending.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutschenreuter et al (US 4,399,839) in view of Bradt (US 6,238,788).

Hutschenreuter teaches a tubular casing made by heat sealing (col. 3, lines 40-47) a three-layer film (Figure 6).

Hutschenreuter fails to teach the control of interlayer peel strength or the interlayer peel strength recited in claim 2.

Bradt teaches multilayer packaging films (abstract) having interlayer peel strengths of less than 200 g/inch [10 to 2,000 g/15 mm equals 16.95 to 3,389 g/in.]. It says that peel strengths of less than 200 g/in are desirable to provide easy opening (col. 5, lines 35+).

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The patents are analogous because they both deal with multilayer heat sealed packaging films.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to produce packaging films based on the three layer film of Hutschenreuter and having the interlayer peel strengths of Bradt in order to make the films easy to open.

The motivation to make packaging films having the peel strengths of Bradt is found at col. 5, lines 35+ of Bradt, where the claimed peel strengths are said to make the films easy to open.

It is deemed desirable to make packaging films easy to open so that consumers can easily gain access to the contents within the films.

5. Claims 3, 4, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutschenreuter and Bradt as applied to claims 1, 2, 6, and 7 above, and further in view of Hutschenreuter and Bradt are discussed above.

They fail to teach the opening means claimed in claims 3, 4, 8, and 9.

Weiss teaches that a flange (feature 111 in Figure 2) may be provided near the heat sealed portion of multilayer, heat sealed packaging (abstract), to provide for opening (col. 8, lines 3-8).

The patents are analogous because they all deal with multilayer, sealed packaging.

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It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the flange of Weiss into the packaging suggested by the combination of Hutschenreuter and Bradt, above, in order to facilitate opening.

The motivation to employ the Weiss flange in the packaging suggested by the combinations of Hutschenreuter and Bradt is found at col. 8, lines 3-8, where the flange is said to assist in opening the package.

It is deemed desirable to facilitate the opening of sealed packaging by providing features, such as the flange of Weiss, therein to make it easier for the consumer to get access to the contents of the packaging.

6. Claims 3-5 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutschenreuter and Bradt as applied to claims 1, 2, 6, and 7 above, and further in view of Suzuki et al (EPO 0282773A1).

Hutschenreuter and Bradt are discussed above.

Suzuki teaches that a V-notch (Figures 4a, b, d, and e) will facilitate opening of a multilayer container (page 5, lines 53+).

The three references are analogous because they deal with the production of multilayer packaging.

It is would have obvious to one having ordinary skill in the art at the time that the invention was made to employ the V-notch of Suzuki in the packaging suggested by the combination of Hutschenreuter and Bradt, in order to provide a means to facilitate opening of same.

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The motivation to employ the V-notch of Suzuki in the packaging suggested by the combination of Hutschenreuter and Bradt, is found at page 5, lines 53+ of Suzuki, where the V-notch is said to facilitate opening of its multilayer container.

It is deemed desirable to provide a means to facilitate opening of the multilayer packaging suggested by the combination of Hutschenreuter and Bradt, such as the V-notch of Suzuki in order to make it easier for the consumer to gain access to the package's contents.

Conclusion

Any inquiry concerning this communication should be directed to Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



S. M. Nolan
Patent Examiner
Technology Center 1700

SMN/smn
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